

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

STEPHANIE MCCOLLUM, <i>et al.</i>,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 3:12-CV-02037
	§	
BRAD LIVINGSTON, <i>et al.</i>,	§	
<i>Defendants.</i>	§	<i>JURY</i>

**BRAD LIVINGSTON'S OPPOSED MOTION TO EXTEND
SUMMARY JUDGMENT DEADLINE**

TO THE HONORABLE JUDGE OF THIS COURT:

The deadline for the filing of a Motion for Summary Judgment is May 2, 2014. Livingston has pending before this Court his Motion to Dismiss on the Basis of Qualified Immunity. The United States Magistrate has ruled in this case that this defendant may not be deposed until 30 days after the Court has ruled on his Motion to Dismiss: (February 8, 2014, Doc. 129)

Brad Livingston is ORDERED to appear for deposition within 30 days after District Judge Lindsay rules on Livingston's Motion to Dismiss (Doc. 85).¹

If this defendant files a Motion for Summary Judgment on or before May 2, 2014 before the Court has ruled on his Motion to Dismiss, Plaintiffs will likely move this Court to permit the taking of his deposition to obtain evidence on which to create a fact issue as to the Motion for Summary Judgment.

Public officials are entitled to protection from discovery until the Court has ruled on their assertion of qualified immunity as Brad Livingston has done in his Motion to Dismiss. *Backe*

¹ In Doc. 129, pp.3-4, Magistrate Judge Toliver discusses applicable law holding that public officials should not be deposed prior to a Court's determination that the live Complaint sets for sufficient facts to defeat their qualified immunity.

v. *Leblanc*, 691 F.3d 645, 648 (5th Cir. 2012) (“One of the most salient benefits of qualified immunity is protection from pretrial discovery, which is costly, time consuming, and intrusive.”). Livingston would be forced to waive such protection if required to file a Motion for Summary Judgment prior to this Court’s adjudication of his Motion to Dismiss on the basis of Qualified Immunity.

WHEREFORE Defendant Livingston asks this Court to extend the summary judgment deadline from May 2, 2014 until 30 days after the Court has adjudicated his pending Motion to Dismiss on the basis of Qualified immunity.

Respectfully submitted,

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CERTIFICATE CONFERENCE

The motion is expected to be opposed. Counsel for Defendant Livingston contacted Plaintiffs' counsel via electronic mail on Monday April 21, 2014 and received a response that Plaintiffs would respond to whether they were opposed at a later time, but have not done so.

NOTICE OF ELECTRONIC FILING

I, **DEMETRI ANASTASIADIS**, Assistant Attorney General of Texas certify that I have electronically submitted for filing, a copy of the above and foregoing in accordance with the Electronic Case Files system of the Northern District of Texas, on the 22th day of April, 2014.

/s/ Demetri Anastasiadis
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CERTIFICATE OF SERVICE

I, **DEMETRI ANASTASIADIS**, Assistant Attorney General of Texas, certify that a copy of foregoing has been served electronically on the 22nd day of April, 2014 addressed to:

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